

### **REMARKS**

Applicant respectfully requests reconsideration. Claims 1, 3, 6-10, 13-21, 24, 27, 31, 32, 44, 46, 57, 59, 60, 62, 65, and 71-79 were previously pending in this application. By this amendment, Applicant is canceling claims 62, 65 and 78 without prejudice or disclaimer. Claims 1, 20, 24, 27, 44 and 57 have been amended. As a result, claims 1, 3, 6-10, 13-21, 24, 27, 31, 32, 44, 46, 57, 59, 60, 71-77 and 79 are pending for examination with claims 1, 20, 24, 27, 44 and 57 being independent claims. No new matter has been added.

### **Interview Summary**

Applicants thank the Examiner for the courtesy of granting and conducting a telephone interview on March 2, 2010. During the interview, Applicants representative provided an overview of some embodiments and discussed proposed claim amendments, differences between the claims and cited references were also discussed.

The Amendments and remarks here may serve as a further summary of the interview.

### **The Claims Distinguish Over the Cited References**

The present application describes providing a user interface based on the cognitive availability of the user. The application generally describes that an interface may be provided by selecting from a set of predetermined interfaces or by selecting of interface elements. However, regardless of how the interface is provided, the presentation of information can be tailored to the cognitive availability of the user.

All independent claims have been amended and now clearly recite applicant's contribution to the art. Limitations based on those in previously pending dependent claims 78 or 79 have been added to all of the independent claims.

Claim 1 now recites, among other limitations: "wherein, when the user is determined to have cognitive availability for information representing one type of feedback, presenting the

selected predefined user interface comprises presenting one visual indicator in peripheral vision of the user.” This limitation is based on previously pending dependent claim 78.

In rejecting previously pending claim 78, the Office Action asserts that this limitation is met by Smyth at col. 4, lines 41-61. However, the cited passage is unrelated to selecting a user interface format. Moreover, the cited passage is unrelated to peripheral vision of the user. To the contrary, the cited passage relates to “gaze control” and is describing displaying a visual cue to help the user quickly find where the user should be looking on the display. Applicants respectfully submit that “*gaze control*” cannot reasonably be interpreted as teaching “presenting one visual indicator in *peripheral vision* of the user” (emphasis added), as claimed. Because none of the cited references teaches this limitation, even if combined, the combination would not meet all limitations of this claim, and the rejection must be withdrawn.

Independent claim 20 has also been amended and now recites, among other limitations: “when the user is determined to have cognitive availability for information representing two types of feedback, presenting the selected predefined user interface comprises presenting one visual indicator in peripheral vision of the user and presenting an audible indicator.” This amendment is based on limitations in dependent claim 79. In rejecting claim 79, the Office Action cites to the same passage of Smyth used to reject claim 78. As noted above, that passage describes visual cues for gaze control. Accordingly, the passage cannot be said to teach multiple aspects in the claim, including one visual indicator in peripheral vision or providing feedback audibly. Because none of the cited references teaches this limitation, even if combined, the combination would not meet all limitations of this claim, and the rejection must be withdrawn.

Independent claim 24 is also amended based on limitations in dependent claim 79. For reasons that should be apparent from the discussion of the references, above, the rejection of this claim must also be withdrawn.

Independent claim 27 is also amended based on limitations in dependent claims 78 and 79. For reasons that should be apparent from the discussion of the references, above, the rejection of this claim must also be withdrawn.

Independent claim 44 is also amended based on limitations in dependent claim 78. For reasons that should be apparent from the discussion of the references, above, the rejection of this claim must also be withdrawn.

Independent claim 57 is also amended based on limitations in dependent claim 79. For reasons that should be apparent from the discussion of the references, above, the rejection of this claim must also be withdrawn.

#### General Comments On Dependent Claims

Each of the dependent claims depends from a base claim that is believed to be in condition for allowance, and Applicants believe that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. Applicants do not, however, necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor do Applicants concur that the basis for the rejection of any of the dependent claims is proper. Therefore, Applicants reserve the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

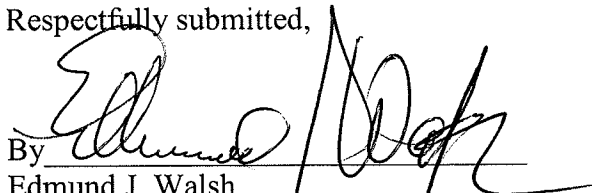
**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance. A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed, or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M1103.70778US00 from which the undersigned is authorized to draw.

Dated: \_\_\_\_\_, 2010

Respectfully submitted,



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